has almost been exhausted. The Vydyan for anti-malarial operations has to travel to the Ayurvedic clinic recently started in connection with the Chalakkudi Annamalais Road Scheme, besides to the Estates and other hilly tracts. Two more members of the Advisory Board of the Department have to be paid T.A. this year. The expenditure under T.A. has increased due to these causes. The allotments sanctioned under other Heads are too limited to effect re-appropriation. An additional allotment of Rs. 225 is therefore necessary under "23. Ayurveda T.A."

Mr. A. V. Moothedan *(Chalakkudi)*: May I know what was the result achieved by the Vydyan going to the Annamalais. Is this efficacious?

Mr. T. K. Nayar *(Minister for Rural Development)*: Ayurveda Experts say that it is efficacious.

Demand put and carried

(2) Rs. 490 under "14—4—Legislative Council—Miscellaneous"

Rama Varmha Tampuran *(Secretary to Government)*: I rise to move for an additional allotment of Rs. 490 under "14—4—Legislative Council—Miscellaneous". This is the amount required on account of the A.R.P. arrangements that had to be made in this Council.

Demand put and carried

(3) Rs. 400 under "16—C—Criminal Justice and contingencies"

Rama Varmha Tampuran *(Secretary to Government)*: I rise to move for an additional allotment of Rs. 400 under "16—C—Criminal Justice and contingencies". This is the amount required to make refunds to those who had deposited in excess of the amounts required for Radio Licenses and also in one case for refund of the Newspaper License fee.

Demand put and carried

(4) Rs. 12,000 under "22—1—Medical proper—Dietary Charges"

Rao Sahib Dr. T. Verghese *(Chief Medical Officer)*: I rise to move for an additional allotment of Rs. 12,000 under "22—1—Medical proper—Dietary Charges". This was necessitated because of the increase in the prices of dietary articles. I request the House will be pleased to sanction it.

Mr. A. B. Salem *(Mattancheri)*: I wish to know whether in providing dietary articles for hospitals any reduction is made?

Rao Sahib Dr. T. Verghese *(Chief Medical Officer)*: Not because of the increase in prices of articles. Now we have passed orders that these dietary articles might be bought locally so that the patients may not suffer.

Mr. A. B. Salem *(Mattancheri)*: Hereafter at least, the Government will see that the patients are given sufficient food.

Demand put and carried

LEGISLATIVE BUSINESS

(1) The Cochin Village Courts Bill

Mr. T. K. Nayar *(Minister for Rural Development)*: I rise to move that the Cochin Village Courts Bill be read in Council and in doing so I wish to give a short resume of the history that has led up to this measure. Hon'ble Members are aware that during the Budget Session of 1116 the working of the Panchayat Courts was subjected to severe criticism and that my predecessor assured the House that Government would set up a committee to enquire into the working of these Courts and to recommend the steps to be taken for the better and more efficient working of these Courts. Accordingly Government appointed a Committee which was presided over by Rao Sahib C. V. Antony, Retired Chief Judge. The Committee after a very thorough enquiry has submitted its report which contains valuable and weighty suggestions. The Committee are definitely of opinion that while no case has been made out for the ending of these Courts there is a very good case for mending them. These Courts, according to the Committee, afford "a convenient means for the Villager to secure rough and ready justice at a comparatively lesser cost" and the extreme view of the abolition of these Courts held by a negligible minority is founded on the present unsatisfactory working of some of the Courts." To quote from the report of the Committee, "the Committee feel that no case has been made out for the total abolition of the Panchayat Courts, though very strong reasons exist for overhauling the constitution and working of these Courts".

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The Committee found that there is inordinate delay in the disposal of cases by some of the Panchayat Courts and that the main reasons for the delay are avoidable. To quote again from the report, "want of the requisite quorum of the Judges, late attendance of Judges, without whose presence no valid constitution of the bench is possible even if there is the requisite quorum, frequent adjournments of cases on inadequate grounds, unsystematic posting of cases resulting in congestion of work on certain days, the long delay inwriting out judgments and in securing the signatures of the Judges, the delay caused in the return of records taken to the District Munsiff for inspection, incompetence of some of the Judges to grasp the essential points for decision, adjournments made as a matter of course for framing of issues filing of written statements, arguments. etc., and the delay in the election of Judges by efflux of time—these, in brief, cause an unjustifiable and long pendency of cases thereby defeating the very purpose for which these local courts have been constituted."

Apart from the recommendations made by the Committee in matters of mere procedure with a view to enable these Courts to render speedy justice the major recommendations made by the Committee are four-fold. They are the separation of these Courts from the Panchayats, the appointment of Judges by nomination instead of election, the closer inspection of these Courts and the adoption of the system of licensing the agents practising in these Courts. The main reasons advanced by this Committee for their recommendation to have recourse to nomination in the appointment of the Judges is that there is a widespread feeling entertained by the litigant public that the administration of justice by these Courts is vitiated by party factions arising from Panchayat elections. They further feel that for the impartial, unbiassed and efficient administration of justice as also to inspire confidence in the litigant public about the impartiality of these tribunals it is necessary to replace the system of election by nomination. Such a course would, in the opinion of the committee, enhance the efficiency of these courts and thereby remove most of the defects that now exist. These recommendations, emanating as they do, from such an experienced and competent body are entitled to considerable weight.

Government agree with these main recommendations of the committee and view that the separation of the Courts from the Panchayats will by itself have a salutary effect on the working of these courts and that the resort to the nomination of Judges would enable Government to recruit the best available men and thereby improve the personnel of these Courts. Government further fully endorse the view of the committee that the agents practising in these Courts shold be licensed and feel that this reform is long overdue. As regards inspection and control, however, Government agree with the suggestion made in this House that to ensure the proper and efficient administration of justice by these local tribunals, it is imperative that they should be placed under a full time officer who should be in a position to devote his entire time to secure the better working of these Courts by frequent inspection and to give these Courts the guidance which they stand so sorely in need of. Provision has therefore been made in the Bill for the appointment of an officer to be designated the Registrar of Village Courts in whom will be vested the revisional jurisdiction and the administrative control now exercised by the Munsiffs. The High Court will have power to revise the orders of the Registrar and provision is also made on the lines of the C. P. C. enabling the Village Courts to refer questions of law to the Registrar.

The Committee has also recommended in detail the changes necessary in matters of procedure and the conduct of cases in the Courts. Their main recommendations are that a Bench of three Judges should hear and dispose of the cases, that the Courts should proceed with the trial of the case as soon as the written statement is filed, that the evidence should be recorded in full, that the decree should be pronounced without delay and that it need not be so elaborate. They were also of opinion that every petition to the Village Court should bear a Court fee label of one anna and that provision should be made on the lines of the C. P. C. investing the Village Courts with jurisdiction to try suits against defendants residing in more than one jurisdiction. They have further recommended that provision should be made for the release of judgment debtors brought on days when the Court is not sittting and for the deposit of the decree-debts realised, otherwise than the hands of the President.

Provison has therefore been made in the Bill for the above purposes, either by an express provision to that effect or by taking power to frame the requisite rules in such matters. The Panchayat Act now contains detailed provisions regarding the procedure in respect of attachment but not as regards the provisions regarding arrest. Though by a provision in the Act the

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provisions of the C. P. C. are made applicable to the proceedings in these Courts it is desirable that the provisions as regards arrest and detention are embodied in the Act itself to make the same as self-contained as possible. Accordingly the provisions in the C. P. C. as amended up to date regarding arrest and detention are incorporated in the Bill.

These, in brief, are the main provisions of the Bill and it is hoped that the Courts so reformed will function in the way in which it should and outlive the criticisms, that are now levelled against them. Most, if not all the provisions are close adaptations from fairly well known statutes and as Government are anxious to effect the reforms contemplated by this measure as soon as practicable, may I request the House to afford the Bill a speedy and easy passage and dispense with the need for a Select Committee the Hon'ble Members, however co-operating fully by offering their useful suggestions by tabling the ne cessary drafting or other amendments. With these words I commend the motion for the acceptance of the House and request the full and whole-hearted co-operation of the House in recording their support for the reform so much needed and so long overdue.

Mr. A. B. Salem *(Mattancheri)*: I have much pleasure in seconding this Bill. The working of the Panchayats, as the Hon'ble Minister has already sta ted, came under very severe criticism. I am very glad to note that the committee has recommended that these Judges may be nominated. With that provision, we have gone a long way to get for the Village Courts proper persons to exercise judicial powers. The system of nominating these Judges, instead of electing them, is indeed very salutory. All the results of the election, the turmoil, the rivalry, the hatred, etc., was always found playing in the Panchayat Courts, because they are all subject to pulling and being pulled this side and that side, and justice so administered did not appear to have been administered impartially. Justice should be administered and also appear to be administered impartially. That was the main trend of the criticism that was levelled against the Village Panchayat Courts. Such things should be ended and therefore the House should support the Bill and give it a speedy passage through this House. With these words, I second the motion.

Mr. V. J. Mathai *(Planters)*: Before I speak on the subject, may I point out to the Chair the undesirability of sending duplicates of Bills to the members. We got a copy in the Gazette and we got a separate copy as members. I wish to point out in all seriousness especially in the case of the Companies Bill that copies need not be sent.

Mr. President: I would suggest for the consideration of the Hon'ble Members that they may return the copies back. If a member does not want a copy, we would be very greateful if he returns it. If it is the feeling of the House, we will give up the practice of sending copies.

Mr. V. J. Mathai *(Planters)*: I only suggested that the copy attached to the Gazette may be deleted.

Mr. C. J. Mathew *(Joint Secretary to Government)*: If the Hon'ble Members say that these copies need not be given to them, then we shall discontinue the practice.

Mr. C. V. Iyyu *(Kunnamkulam)*: Generally as far as my experience goes, my Gazette is used by 40 or 50 people. So, unless a separate bill is sent to me it will not be useful to me.

Mr. President: The matter will be considered by Government.

Mr. V. J. Mathai *(Planters)*: I may at the outset assure the Hon'ble Minister that the Bill is welcome. At the same time I may also raise a complaint that the time given to us is very brief, not as destructive criticism or obstructive tactics. I do welcome the Bill and I am as anxious, as, if not more than, the Minister to see that the Bill comes into law as speedily as possible. This is not a small matter. The Bill runs into about a century of sections. Indeed a proper study of the subject requires a study of the old Panchayat Act, and a comparison of the Act, existing in British India and the C. P. C. I have got just four or five days' notice. The time is certainly inadequate. At the same time I appreciate what the Hon' ble Minister said of the necessity of speedily passing through all the stages. I have however to point out that in matters like this it is better not to hurry. I hope you will consider the matter and give us at least one more opportunity to place all our criticisms and suggestions before you.

Speaking on the Bill I should say that I was one among those who strongly criticised the

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working of the Panchayat Act on account of its various deficiencies. Elections were playing havoc with the judicial minds of the Judges, not because they were essentially bad but because of the obligations created by elections in canvassing, and the necessity for canvassing for one's re-instatement in the Office of the Judges. Unwillingness to displease a supporter and the willingness to offend an opponent were all often exhibited in the working of the Panchayat Courts. I have, however, to point out these communal considerations should never weigh in choosing Judges of any Tribunal as for that matter. This is a matter on which I have always fought and will always fight. I want to point out to the Government that in the working of this Bill communal considerations should never find a place in the choice of the Judges. Integrity and not efficiency is the first quality that ought to be seen in a Judge. Integrity, honesty and impartiality ought to be first criterion for the choice of the Judges. Honourable men often refuse to stand for elections,—to borrow the words of a great politician,—"to go through the mire of an election", though they could subsequently shine in the limelight of publicity. I may say that, that defect can be removed by nominations and in the exercise of nominations I would appeal to the Hon'ble Minister to see that communal considerations do not play in that matter at all. Secondly the working of the Bill requires a very efficient Registrar, a man of vast and long judicial experience and a man whose name will by itself carry conviction to the minds of the people that the working of the Courts will be closely scrutinised and developed. We must all remember that lawyers are not possibly coming as Judges. They require instruction. Very often in matters of administration of law they will be found to be not efficient being, unversed, if I may say so. That being so, everything depends upon the guidance, the advice and the encouragement given by the Registrar who would be guiding these Judges all over the State. To me it appears that much more than in any other department everything depends upon the choice of the Registrar and I would strongly point out to the Government the necessity of choosing a senior District Munsiff who has long experience in the judicial line; and they must remember that in the matter of procedure and several other matters expert guidance is necessary for the proper working of the courts.

As regards the Bill I must say that the whole country welcomes it. If the Government are anxious to see that the Bill passes through, I would only point out to them that they should be careful in studying the working of these courts and later on bring in amendments and set right deficiencies on the recommendation of a Registrar who should be the best possible.—

*__Mr. K. M. Ibrahim__ *(Cranganur)*: The Hon'ble member has been stating that communalism has been one of the reasons for the bad working of these courts. Neither the report of the Committee nor the Hon'ble Minister's speech contains that communalism has been responsible for vitiating these courts. The committee consisting of eminent persons have not made even a hint about communal considerations. My Hon'ble friend comes and provokes discussion and in the long list of the reasons that have been enumerated by the personnel of the committee, not a syllable has been uttered regarding the bad working of these village courts as having originated from communal representation. I think it is quite out of place and irrelevant.

*__Mr. A. V. Moothedan__ *(Chalakkudi)*: I have great pleasure to support the motion tabled by the Hon'ble Minister. It is no doubt a very salutary measure, and I think there would be no difference of opinion in this House with regard to this measure. But regarding details there may be some disagreement. I wish to point out some of the features which I was able to find out on a cursory reading of the Bill. Before that, two fundamental points, I may be allowed to present to the House. Now we are going from election to nomination. The principle is here that the village courts will be presided over by Judges who are nominated by Government. These Judges should be not active politicians as my Hon'ble Friend Mr. Mathai said. That is the first consideration. They should be men of integrity, they should be men of honesty, they should have commonsense. These things, nobody will disagree. Apart from that, they should not be active politicians. If active politicians are appointed as Judges then their views will be coloured. Therefore, I am very anxious that every safeguard should be introduced in the Bill to avoid political men entering the court as Judges; and according to the provisions of the Bill Judges will have to be nominated by Government according to certain rules which will be framed later. My submission to the House is that Government should nominate, but should be on the recommendation of some standing committee consisting of 3 individuals. There should be somebody to advise as to how the nomination should be made. The Minister will have to nominate on the advice of that body. The Minister in the usual course will nominate on the recommendation of the Director of Public Health and Panchayats. Every Village Menon will have some

*Speech not corrected by the Hon'ble member.

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people in his pocket and he may nominate them. The Minister cannot be blamed, because he cannot go to every village; it is impossible. Therefore, I suggest that there should be a statutory body of 3 for each Taluk or something like that, may be retired Government Officers. Members of the Council should not be appointed, because if we are appointed, then we have got our own weakness, we have our party-men and so on. Therefore, I confess that we should not be appointed. You may appoint retired men who may have nothing to do with politics. The Diwan Peishkar may refer and decide who are the people best suited and the work will be less difficult. If we appoint for each Taluk 3 men, then for each part of the Taluk we will get some representation. If you ask me about Chalakkudi I will be able to give my opinion without any difficulty at all. Like that, there will be honest men, retired men, who can give very impartial and efficient advice in the matter of the selection of Judges. The most important factor is the personnel of the Judges. If the Judges are useless, the courts are useless. The main principle is that we must have the best men of the locality and rules will be framed that only the best, competent, upright, and impartial men should be appointed to these courts.

Regarding the other point, I wish to bring to the notice of the House, as pointed out by the committee, that very often there was no sitting of the court because of want of quorum. It is due to a fundamental reason. According to the present practice, a Judge is getting nothing. Chalakkudi Panchayat Court is a very big court. There are about 11 Judges, coming from Koratti and other places. They have to walk about 5 or 6 miles. They often come by bus and they have to spend money out of their pocket. Those people are very respectable people. They are business men. They have to sacrifice. They have to spend out of their pockets for meals and other expenses. I think that for such sacrifice the committee has recommended one rupee. My point is that there should be provision in the Bill for framing rules for giving a daily allowance or so to the members of the courts. Otherwise, it is impossible. It is my conviction that honorary service won't work. That is my opinion. That is why I said that the members of the Council should be paid. Everybody in Parliament has been paid. Why not the members of the Council be paid? That is a different matter. My principle is that the Judges should be paid, not as salary, but allowance for their meals and other expenses. Without meals, how can they work? They must have something to eat. Therefore what I submit is there should be provision to frame rules for paying the Judges the minimum necessary and some travelling allowance and the amount will be fixed by the Minister under the rules. These are the main principles.

Then since the Hon'ble Minister wanted some suggestions, I may point out to the House some of the defects which in my opinion should be rectified. The first is regarding the definition of "Village. The definition of "village" in clauses 4 and 5 should, I think, be modified. "Village" means a local area recognised by Government from time to time as a village for purposes of land revenue administration or a local area for which a Village Court has been established under that Act". Now, in the clause it is stated—"Government may from time to time by notification in the Cochin Government Gazette group two or more villages and establish one Village Court for them all". Here also there is the word "village". What is the definition of "Village"? The definition is given in clause 4. Village or a group of two or more villages is meaningless, where village has been defined as the area for a Village Court. In the definition, the best thing is to say—"Village" means a local area for purposes of land revenue administration". Otherwise, there will be confusion.

Then I come to clause 7, regarding the appointment of Judges. I find there is no provision for resig ation and deaths. What happens if a Judge resigns of his own accord? Suppose by an act of God, the man dies. What is the provision? There is provision for removal, and dismissal and so on for misconduct. I think death is not misconduct. There should be some provision that the office of the Judge shall terminate by resignation or death. There is one very fundamental mistake in clause 43. It states that the Bench which heard the argument shall within fifteen days after the arguments are closed, prepare and sign the decree to be passed in the case as shall appear to it to be just and equitable. I think no court of law is compelled to pronounce judgment within a limited time. It is very novel. There is no such rule at present. It is in the discretion of the court to pronounce judgment. Suppose within 15 days one of the Judges dies or resigns. They cannot pronounce judgment. There is no alternative proposal. There is no provision that if within 15 days the judgment is not pronounced, there will be a re-argument.

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Suppose within 15 days the courts are unable to pronounce judgments. What is the party to do? Then they will be removed for misconduct. Is the fact that the Judges who are hearing arguments are not pronouncing judgments within 15 days, good reason, for removing them? But they can be removed for misconduct. There is no provision here. What is it that is one in Civil Courts? If the argument is over they will pronounce judgment, and in the High Court they will say that the cases should be finished soon. Why there is this 15 days' rule I do not understand. This is unnecessary, because no court of law should be compelled to pronounce a judgment within a certain number of days. Suppose the provision is there. What happens if the Judge dies? What is the provision? There is the physical impossibility of pronouncing judgment. That also requires amendment.

Then regarding clause 6 which relates to the Bench of Judges. I think according to our High Court practice, there is a proposal for having a Bench of Courts for the Village Courts also. There are only 5 Judges. Suppose all the 5 Judges are present. Only 3 constitute a Bench. What are the others to do? You may say the quorum is 3. Let all the Judges be there. There should be only one court. You may prescribe a quorum of 3 Judges, that is enough. Otherwise, I do not understand from the Act whether 5 Judges can sit together.

I don't know whether it will be irregular. What clause 6 says is this.—"A village court established under this Act shall consist of five Judges, one of whom shall be styled the President. Every suit instituted in and every proceeding before a Village Court shall be disposed of by a Bench of three Judges. In case of difference, the opinion of the majority shall prevail". What is the meaning of that? Every proceeding there shall be disposed of by three Judges. It cannot be disposed of by four Judges. It is a mandatory provision. What about the other two Judges? Are they to sleep. Suppose on a particular day there will be a sitting of the court and three Judges were appointed to be present. Suppose one Judge unfortunately absents himself. Then on that day there will be no sitting at all. I want to avoid that contingency. There is no necessity to prescribe a Bench. The best thing is to have a court of five Judges. There can be no single Bench, or division bench or full bench like the High Court. That should be the procedure. As it stands it cannot be allowed.

Then there is clause 51, regarding exemption from arrest. "Subject to the provisions of sub-section 3 and to the provisions contained in sections 106, 107 and 129 of the Code of Civil Procedure, XXIX of 1111, no judgment-debtor shall be arrested by a Village Court". I looked into the Civil Procedure Code. I find the persons exempted under that Code are members of the Ruling Family, etc. I think no member of the Ruling Family is going to be arrested for a small decree like this and I think that provision, to say the least, is rediculous. Then the Magistrate is exempted. Is a Magistrate going to be arrested for not paying Rs. 50 if a decree is passed against him. Under the Civil Procedure Code the exemptions contemplated are Members of the Ruling Family, Judges, Munsiffs, Magistrates, etc. The arrest is after decree. These eminent persons will surely pay this petty amount even before a warrant is issued. Therefore, they don't require any special protection under this Act. That is not necessary. I have no objection. According to the new Civil Procedure Code arrest cannot be done at once. There should be a notice issued. As soon as the notice is received that person can deposit the amount. I do not find any reason because on principles it is not good to grant exemptions. If you want to grant some exemptions it may be stated here who are the persons without referring to the Civil Procedure Code. Therefore, it is better that this Act must contain everything. We cannot go to the Civil Procedure Code and the Limitation Act, etc., so that these village Judges may look into it and decide. If there is no Civil Procedure Code what are the Judges to do. Many of the provisions are copied verbatim from the Civil Procedure Code. Since the Bill contains so many provisions in detail copied verbatim from the Civil Procedure Code you copy this also and not all. Only absolutely necessary persons should be exempted.

Then there are clauses 57 and 69. That is regarding arrest and detention. "Notwithstanding anything in this Chapter where an application is for the execution of a decreee for the payment of money by the arrest and detention in the civil prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court shall, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to the civil prison". There was an amending Bill to the Civil Procedure Code 18/14. There, specific grounds are stated when a person can be sent to a civil jail. I find these things are omitted here. Only dishonest debtors can be sent to the jail. He must have means to pay the amount and then not pay. He

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must have dishonestly assigned away his properties to somebody. These things are not mentioned here. I should say it is a fundamental mistake. It ought to be rectified.

Then there is clause 63. "Government may by general or special order published in the Cochin Government Gazette, declare that such portion of agricultural produce, or of any class of agricultural produce, as may appear to the Government to be necessary for the purpose of providing until the next hervest for the due cultivation of the land and for the support of the judgment debtor and his family, shall, in the case of all agriculturists or of any class of agriculturists, be exempted from liability to attachment or sale in execution of a decree".

Now, the difficulty regarding this is this. When an agriculturist's crops are attached now it is stated that a portion of the crops cannot be attached and a portion must be released to the cultivator. According to the Bill the Government is empowered to decide which is the portion necessary for the cultivation expenses and for the maintenance of his family, etc. There is a similar provision in the Civil Procedure Code. My experience is that the Government have till this day not passed orders what that portion is. Similar fate will fall upon this also. What is the provision which has to be exempted from attachment? You may fix it. Don't ask the Government to do that. They may forget that as any human being is liable to forget. Here at this moment when the Bill is considered you may decide what is the portion which is to be exempted from attachment.

Then I shall deal with clause 86. Now it is provided in the Bill that when the decree is contrary to law the Registrar has power to revise the decree. Now what does clause 43 say: The Bench which heard the argument shall, within fifteen days after the arguments are closed, prepare and sign the decree to be passed in the case as shall appear to it to be just and equitable ..... So the Judges are free to pass any decree which appears to them to be just and equitable. It may be contrary to law. Never mind. The Registrar is given power to revise a decree which is contrary to law. That is in consistent and my opinion also is that the judges may go wrong regarding point of law. But you need not have a power of revision. It should be like a court of arbitration. If the Judges are corrupt, grossly partial and guilty of misconduct then you may revise it. What is the object of this Bill? We must avoid unnecessary litigation. We must avoid the parties going to the High Court three times for this petty amount. I know of a case where the parties went to the High Court two times for 78 rupees. Such conditions we must avoid. Suppose the Judges go wrong. Let the parties suffer. You should not ask the party to go to the Registrar for revision. If you are going to the High Court for Rs. 50 you have to spend Rs. 200. What is the use. When you get a decree you will get only Rs. 50 as costs. No Advocate will argue point of law in the High Court for less than Rs. 50. Therefore, that party for his obstinacy, for his contumacious—I think there is such a word—or abnoxious conduct went to the High Court. We need not encourage them. What I submit to the House is if you want to give such a power to the Registrar then clause 43 should be amended. If you don't, then clause 87 should be amended. My opinion is in such matters the decision of the Village Courts shall be final unless the Judges are found to be corrupt, grossly partial and guilty of misconduct. Nobody is going to be ruined by this Rs. 50. If you make this provision here one or more parties will be ruined. The party may lose his case. What is the result. If there is this provision for Rs. 50 they may lose Rs. 200. Therefore we need not encourage the people for further litigation. On that principle I suggest this. When the Judges are honestly convinced it is equitable and just there should be a finality. Regarding the question of law there is a provision for reference. The Judges can refer the matter to the Registrar. There is clause 85. They need dispose of the matter only after that. Therefore, I do not think there is any necessity for a revision on the question of law. The parties could move the court to make a reference.

Under clause 85 the Judges can refer the matter on questions of law to the Registrar under clause (3) "the Registrar after hearing the parties, if they appear and desire to be heard, shall decide the point so referred, and shall transmit a copy of his judgment, under his signature to the Court by which the reference was made, and such court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision". It is also stated that no advocate or legal practitioner can appear before him. When the Registrar is hearing questions of law I should say advocates should be allowed to appear and place their arguments, because otherwise how can the Registrar be enlightened on questions of law? The parties themselves will be ignorant of the law. Therefore, that clause should be amended.

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Sir, these are some of the points that I wished to comment upon. I have not made a detailed study of the subject.

Mr. K. Narayana Menon *(Mulakunnathukavu):* Mr. President, The Bill as has been moved before this House and when moving for leave to introduce this Bill the mover, the Hon'ble Minister has presented the objects and reasons. It has been commented upon and accepted by the whole House is clear that it is certainly to be accepted as a measure of immediate necessity, is also not open to serious dispute or objection. The various provisions of this Bill will certainly require certain modifications and amendments is also not disputed. So far as I am aware, the Hon'ble Members of this House have been kind enough to extend whatever suggestions they could and they will also be co-operating for the better drafting and will also move the absolutely necessary amendments in this matter during this course of these two or three days, which will certainly satisfy the needs and requirements of a good legislation to the best of the knowledge and ability of the members of this House. Now, Sir, I will take the humble responsibility of replying to a few suggestions thrown out by the Hon'ble Member for Chalakkudi. Observations from the very beginning commencing from the definition of "a village" right up to the last section have been put in a nutshell, and most of them have been put forth in points and I will respectfully try to explain to the House that most of those suspicions are based not upon real facts but upon mis-conceptions. Now, the first thing is regarding the definition of a village. The definition of a village takes not only the area specified as village for purposes of land revenue administration, but also parts thereof as will be seen from the fact that most of these villages contain portions of Towns. If you only take the village as a revenue unit as it now exists, the trouble will be to define the jurisdiction on territorial grounds. It is such a complication which is sought to be avoided as I understand, from what is stated "village means a local area recognised by Government from time to time as a village for purposes of land revenue administration or a local area for which a village court has been established under this Act". If that is accepted and understood in the light it ought to be, the difficulty that the Hon'ble Member feels will vanish once and for all.

Mr. A. V. Moothedan *(Chalakkudi):* May I know the meaning of village in Clause 5 (*a*)?

Mr. K. Narayana Menon *(Mulakunnathukavu):* As is defined earlier. Where's the difficulty? When village is once defined, it will follow those groups as defined in the section.

Mr. A. V. Moothedan *(Chalakkudi):* It is stated that courts will be established for group of villages.

Mr. K. Narayana Menon *(Mulakunnathukavu):* I really do not follow the trouble. I don't find any difficulty.

Mr. A. V. Moothedan *(Chalakkudi):* What I submit is village means a local area. Then, here, clause 5 as it is, says "Government may, from time to time, by notification of the Cochin Government Gazette.

(*a*) Group two or more villages and establish one Village Court for them all; or

(*b*) constitute divisions in any village and establish a village court for each of such divisions; or

(*c*) establish a Village Court for a village or any specified area.

Mr. K. Narayana Menon *(Mulakunnathukavu):* There is absolutely no confusion unless it be in thought, because it is more than clear what a village means from the first definition. Such villages may be grouped in two, three or four as the Government deem fit.

The next point on which there was some comment and observation made by the Hon'ble Member for Chalakkudi was regarding the rules for nomination of Judges and elections and nominations. Now, as has been pointed out by the Hon'ble Member for Planters, as also by the Hon'ble Member for Mattancheri, it is quite possible that elections create confusion and that some bad blood necessarily or unnecessarily is thrown into the whole administration of justice. It is, therefore thought necessary—not only necessary but essential that that first element which brings in dissension and dissect the powers of administration of justice into various halves and portions by dissemination of bad blood is eliminated once for all. It is with that view that it has been enacted here in this Bill that only nominations will prevail and not elections. It should not for a moment be thought that the democratic power which is being illustrated and explained in all forms and in all socieites, will finally work the salvation or solution of all questions. It has to be said that certainly to the credit of the Government that they have at least for the

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present realised that after all elected members are no better than inhereited mathematicians. They may fare worse and to say that an elected Judge from a village simply because he has 300 or 400 illiterate votes, canvassed by means not known to all, is certainly a competent Judge, is very bad logic. Nomination is the only principle on which we can take and work out a solution.

The next point referred to by the Hon'ble Member for Chalakkudi is that this nomination should be left to certain Committees to be appointed by Government for certain local areas. The very serious objection to that course is where is the guarantee that these members who are constituted into the Committee by Government by nomination will function in the proper form as is expected or supposed to be done by them? It is quite possible that all the disabilities that may attach to the members nominated by the Government will equally and with double force apply to the Committee or to that body which has been first nominated, so that the principle on which the Hon'ble Member suggests that, is fallacious from the very basis because the very basis of that nomination is the nomination of another body. I would say the remedy suggested is worse than the disease.

Mr. A. B. Salem *(Mattancheri)*: May I know whether this Bill is to be administered solely by the Minister or by the Government as a whole?

Mr. T. K. Nayar *(Minister for Rural Development)*: Village Courts will be a transferred subject.

Mr. A. B. Salem *(Mattancheri)*: In the nomination of Judges both the Minister and the Diwan should agree as a matter of procedure because the other charge will still remain that the Minister comes from a Party and he nominates all his Party men.

Mr. K. M. Ibrahim *(Cranganur)*: He is the first citizen of the whole State.

Mr. A. B. Salem *(Mattancheri)*: I am with you in this Bill. I don't want to take away the powers of the Minister. What I am saying is if you are aiming at impartial kind of Judges coming in, then it will be best that both the halves agree to the nomination of the Judges.

Mr. T. P. Poulose *(Kanayannur)*: What will you do when you get full responsible Government?

Mr. A. B. Salem *(Mattancheri)*: Then there will be no difficulty. It will be fully responsible.

Mr. K. Narayana Menon *(Mulakunnathukavu)*: The next was regarding the provision to pronounce judgment within a fixed period. No doubt, some discretion is given to the Civil Courts of the State to reserve judgments and to pronounce them without much delay. But it will be remembered by the Hon'ble Member who has got much experience at the Bar that if and when judgments are delayed for more than 10 to 15 days, it is open to serious criticism and sometimes the High Court also will call for the explanation of the officer concerned. Well that is the thing which happen in courts presided over by law graduates and is known to people with some experince at the Bar. If no such definite instructions are given to a body of persons who are to be Judges without the necessary qualification and without legal acumen, it is only wise that they should be asked to do a certain thing within a certain specified time. There is absolutely nothing revolting either to the conscience of the Judge or the sentiment of the public in fixing such a period so far as this legislation is concerned. Then, the next aspect is the death of a Judge. It is a well-known proposition and well-known problem that no Judge ever dies. It is always a fact that the King of England never dies. A, B or C may die but a Judge will never die, so long as this Statute exists. It is specified expressly in Clause 7 that as and when vacancies occur they shall be immediately filled up by Government by nomination and such Judges shall hold office for the unexpired portion of the period. The place being taken up by another will certainly solve the problem of the decision of the case. That is the only possibility. It will be too much for us to expect that simply because a Judge of the Village Court has heard a case, he will be able to appreciate it more than anybody else. It is open to him to call for a re-trial.

This is only an Act copied out of the Civil Procedure Code with certain exceptional provisions made obligatory and leaving the rest to be governed by the provisions of the Civil Procedure Code. Wherever it does not conflict, all these equitable powers that are vested in the Civil Courts are never sought to be taken away from the village courts. So that the difficulty that appears to be insoluble regarding these aspects are only due to a misapprehensions conceived on the present day dealing of cases in village courts. It is not the fault of the Act or the Village Courts.

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Mr. A. B. Salem *(Mattancheri)*: Three Judges have heard a case. Before pronouncement of the judgment in 15 days one Judge dies. What will happen ? You have made an imperative statement that the judgment shall be pronounced within 15 days.

Mr. T. P. Poulose *(Kanayannur)*: Post it for argument again.

Mr. K. Narayana Menon *(Mulakunnathukavu)*: In the ordinary state of things it does not contemplate the exception of a Judge passing away. To the best of my experience I have never come across a legislation where something has been provided for the passing away of a Judge. During my 21 years' experience at the bar I have never heard of an amendment which provides for the death of a Judge.

Mr. A. V. Moothedan *(Chalakkudi)*: It is different. Because you have made an imperative provision in the Bill that the judgment shall be pronounced in 15 days. If the Judge dies within 14 days, it cannot be pronounced.

Mr. K. Narayana Menon *(Mulakunnathukavu)*: I do follow. I am thankful to the Hon'ble Member for the helpful suggestion. I may state that such contingencies which are of a striking nature may be easily provided for in the rule making powers. It will not go to the root of the legislation or spoil it in any sense.

The next point on which some stress was made is with regard to the Travelling allowance of these Judges. It is left to the Government to remunerate them if they think it fit. Better than T. A. or something, it will be my respectful submission that something in the nature of an honorarium will be a more decent remuneration to the Judges. It is left to the discretion of the Government on whom the rule making powers rest.

The sections that are incorporated in this Act form the next point of attack. Two suggestions have been made to the Government and during the second reading necessary amendments will be made. There is the objection that the members of the Ruling Family and none else is there. The objection has reference to clause 90. In my opinion the provisio s contained in the Cochin Code of Civil Procedure XXIX of 1111, will not apply to the suits and proceedings in the village courts and in the courts of the Registrar. It is absolutely essential that these powers are re-enacted and re-embodied so that these Judges who are not students of law nor ably guided by members of the bar can resort to their own resources. It will be something like a book of ruling and they will be guided by that. It is absolutely essential that they are reenacted in spite of their superfluity or redundancy that may be commented adversely upon.

The next point was about the revisional powers that are vested. There is absolutely no use of this power. "This was proved to the hilt" by making reference to the small pecuniary commitments involved. I would respectfully remind the Hon'ble Member of a decision reported in 13 Moore's Appeals in a case between the Secretary of State versus Madras Corporation involving one rupee fine on timber. It was taken to the Privy Council. Justice is not to be measured by pecuniary standpoints but on the measure of conscience and sense of justice. So that the pecuniary aspect of 20 rupees or 50 rupees or one pie is not the criterion on which this legislation is based upon, but the appreciation of a sense of justice. Is it thought fit to leave in the hands of these Judges law and justice to be sacrified. The second is that any man may take it into his head to drive his client 100 times to the High Court. To avoid that difficulty is it not be better to take away this power of revision to the High Court. That is yet another fallacious argument. The High Court is not sitting there as a Post Office. It will not receive applications. Every one who has got practice in the High Court need not be told that this is the most difficult thing to move the High Court to entertain a revision application. 99 per cent of them will be "No grounds, rejected" and another per cent sometimes investigated.

Mr. A. V. Moothedan *(Chalakkudi)*: I may inform the Hon'ble Member that in the High Court where a point of law is involved they readily take in applications.

Mr. K. Narayana Menon *(Mulakunnathukavu)*: When it appears to their Lordships that the case is one which requires their interference they certainly will welcome. But to take away the power of revision from the High Court of Judicature in the State is the greatest murder of Justice that we can think of in the State. Questions of law governing the case all round will be allowed to be moved before the Registrar and therefore decisions of fact which were arrived at will never be interfered with except where there is corruption negligence and other defects seen,

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on record, so that that aspect is not going to work out any difficulty. The last point to which the member was referring was concerning some difficulty with reference to advocates. It will be remembered by the Hon'ble Member that both under the Vakil's Regulation and the rules framed by the Bar Council the advocates are competent to practice in the High Court and all the courts subordinate thereto. If only we will try to remember the sentence in our certificate, our sannad, it will be brought home where you are not allowed to stand. That is the exception. You shall not teach those people who do not know the A B C of law or try to drive them this way or that way by your appearance. You shall certainly lead the law. That I believe is the right vested, in us by superior courts which do not stand repealed. Most of the difficulties which the Hon'ble Member was referring to were never brought before this House and to the notice of the Government.

Mr. V. K. Bhaskara Menon *(Cranganur)*: May I know whether the District Court Vakils can appear in Village Courts.

Mr. K. Narayana Menon *(Mulakunnathukavu)*: Your Sannad will show that you can practice in the District Court and courts subordinate to it.

Mr. V. K. Bhaskara Menon *(Cranganur)*: I may ask you whether a Vakil practising in the District Courts can practise in the courts of the Registrar?

Mr. K. Narayana Menon *(Mulakunnathukavu)*: Without any exception, rules will provide for such a contingency. The only difficulty was that I was answering to the point raised by the Hon'ble Member for Chalakkudi. That act does not take away the power of the Vakils for appearing before the Registrar. I was answering that vakils as a professional class are not exempted from the category of persons entitled to appear before the court of the Registrar.

Mr. A. B. Salem *(Mattancheri)*: May I know whether it was the intention of the Government to exclude such vakils.

Mr. T. K. Nayar *(Minister for Rural Development)*: There is absolutely no such idea. We have not gone into it. You know I am not a lawyer. There is absolutely no intention at all, at least according to me. I must refer the matter to the Advocate-General.

Mr. A. B. Salem *(Mattancheri)*: It was clear that there was the intention of the Government. I put the question whether it was the intention of the Government expressed or implied. If not there is no necessity for this point being raised.

Mr. A. V. Moothedan *(Chalakkudi)*: Can an Advocate, as a matter of right, appear before the Registrar?

Mr. T. K. Nayar *(Minister for Rural Development)*: I will look into the matter. If necessary, we will refer the matter whether the Court of the Registrar is also under the High Court.

Mr. A. V. Moothedan *(Chalakkudi)*: Whether there is the intention to prevent practising?

Mr. T. K. Nayar *(Minister for Rural Development)*: There is no intention to prevent any advocates to appear in village Courts.

Mr. V. K. Bhaskara Menon *(Cranganur)*: My point has not been answered. My point is whether Advocates who are appearing in the District Court, not in the High Court, whether such District Court Vakils can appear in the Courts of the Registrar. There is no provision in the law as it is now. Rules can be framed allowing such advocates to appear in the Court of the Registrar. In the absence of any such rule making power there must be some change. Otherwise it will be a matter of District Court vakils being excluded.

Mr. T. P. Poulose *(Kanayannur)*: Sub-clause (d) in clause 91 "regulate any matter connected with the procedure of village courts and the court of the Registrar".

Mr. V. K. Bhaskara Menon *(Cranganur)*: Only one such clause is necessary. The question is whether this takes in that procedure.

Mr. M. Sivarama Menon *(Advocate-General)*: Clause 22 of the Bill only refers to Village Courts in the State. It was never the intention to debar advocates or vakils from practising in the Court of the Registrar. It may appear as was pointed out by the Hon'ble Member for Cranganur that a pleader who has got only a District Court Sannad cannot practice

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in the Court of the Registrar or in the Village Courts. He can practise in all courts subordinate to the District Court. The village court cannot be said to be subordinate to the District Court. An amendment is necessary.

Mr. V. K. Bhaskara Menon *(Cranganur)* : The able argument of the Hon'ble Member for Vadakkancheri was that Advocates of the High Court can appear in these courts. He unfortunately forgets that village courts happen to be not subordinate to the High Court.

Mr. K. Narayana Menon *(Mulakunnathukavu)* : I am only trying to explain as best as I can and also to make some additional suggestions. I have tried my level best to answer the various points raised by the Hon'ble Members who have been good enough to give suggestions for the enlightenment and I think there is no more necessity to do anything further except to request that the Government may be pleased to give effect to this Bill with all expeditiousness possible and to pass it into law.

Mr. T. K. Nayar *(Minister for Rural Development)* : I am grateful to the Hon'ble Members of this House for extending their support to the principles of this Bill. I am sure this is not the proper time to go into the details of the provisions of the Bill. Hence I am not attempting those matters. I can assure this House that the weighty suggestions placed by the Hon'ble Members will receive the earnest consideration of the Government and that at the final stage suitable amendments will be made to make the Bill as excellent as possible. I once again request this House to give their whole hearted support to this motion.

Motion put and carried

Secretary to the Council: The title of the Bill is "The Cochin Village Courts Bill".

Mr. T. K. Nayar *(Minister for Rural Development)* : I request that the Hon'ble President may be pleased to suspend Standing Order 32.

Mr. President : Standing order suspended.

Mr. T. K. Nayar *(Minister for Rural Development)* : I move that the Bill may be taken into consideration.

Mr. M. Sivarama Menon *(Advocate-General)* : I second it.

Motion put and carried

Mr. T. K. Nayar *(Minister for Rural Development)*: There are some drafting amendments to be considered. I request that the Bill may be taken up for consideration on Wednesday.

Mr. M. Sivarama Menon *(Advocate-General)* : I second it.

Motion put and carried

Mr. President : We shall pass on to the next item.

The Cochin Registration of Literary, Scientific and charitable Societies' Act (Amendment) Bill *(cont.)*

***Mr. A. V. Moothedan** *(Chalakkudi)* : TheBill now under consideration is a far reaching measure. This amendment is proposed for Associations which are in existence and which are going to be consitituted in future. These have to be compulsorily registered. Otherwise every member of the Society will be fined Rs. 10 a day for every day that offence is recurring. I can understand Government having some power of interference and control over societies which are receiving grants from the Government. But we poor people may join together and form societies. Why do you want to interfere. We do not collect public subscription. We form a trust and our own money we are spending every month. Why should the Government interfere. If the Government are giving no grant for any society then Government should have naturally some control as for example the Cheruthuruthy Samajam. On that ground you should not make such drastic legislation. If the suggestion of the Government is accepted, State Congress, Cochin Congress, all these should be registered. Our Minister will be prosecuted if the Congress is not registered. Similarly the progressive party also. This charity is a very wide term. The leader of the Cochin Congress is doing charitable work. The Nayar Samajam can be included as one such association. So also the S. P. C. A. All these have to be registered compulsorily. Such a provision is not necessary.

* Speech not corrected by the Hon'ble Member.

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